

TTAB

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

QUAD INT'L., INCORPORATED,

Opposer,

vs.

ANDREA FISCHER,

Applicant.

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Opposition No. 91/160,119



05-17-2004

U.S. Patent & TMOtc/TM Mail Rcpt Dt. #22

CERTIFICATE OF MAILING

The undersigned declares under the penalty of perjury the within ANSWER TO NOTICE OF OPPOSITION was forwarded to BOX NO FEE - TTAB, Assistant Commissioner of Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513, by depositing same with the United States Postal Service as first class mail, postage prepaid, this 13th day of May, 2004.

  
SHERYL R. CONAWAY

ANSWER TO NOTICE OF OPPOSITION

COMES NOW APPLICANT, ANDREA FISCHER, and answering for herself alone, hereby admits, denies and alleges as follows:

1. In answer to Paragraph 1 of the Notice of Opposition, Applicant is without information or belief sufficient to respond thereto and, based on such lack of information and belief, denies each and every allegation set forth therein.

2. In answer to Paragraph 2 of the Notice of Opposition, ANDREA FISCHER (hereinafter referred to as "Applicant"),

admits she rendered services as a model for Opposer and that Applicant's photographs were used by Opposer in print publications and on at least one Internet site. In further answer to Paragraph 2 of the Notice of Opposition, Applicant specifically and generally denies each and every other allegation. In further answer to Paragraph 2, Applicant alleges that she is an individual residing in the United States.

3. In answer to Paragraph 3 of the Notice of Opposition, Applicant specifically and generally denies each and every allegation. In further answer to Paragraph 3 of the Notice of Opposition, Applicant alleges that, prior to any act of Opposer alleged herein, Applicant created, adopted and commenced use of the name CHLOE VEVRIER to identify her professional and entertainment activities.

4. In answer to Paragraph 4 of the Notice of Opposition, Applicant admits that Opposer launched a website using the mark CHLOESWORLD with [www.chloesworld.com](http://www.chloesworld.com) as its web address and that excerpts of the "chloesworld" website is attached to the Notice of Opposition as Exhibit A thereto. In further answer to Paragraph 4 of the Notice of Opposition, Applicant is without information or belief sufficient to respond to the remainder thereof and, based on such lack of information and belief, denies each and other every allegation set forth therein.

5. In answer to Paragraph 5 of the Notice of Opposition, Applicant is without information or belief sufficient to

respond thereto and, based on such lack of information and belief, denies each and every allegation set forth therein.

6. In answer to Paragraph 6 of the Notice of Opposition, Applicant specifically and generally denies that Opposer created the name and/or a fictitious character identified as CHLOE VEVRIER. In further answer to Paragraph 6 of the Notice of Opposition, Applicant is without information or belief sufficient to respond to the remainder thereof and, based on such lack of information and belief, denies each and every other allegation set forth therein.

7. In answer to Paragraph 7 of the Notice of Opposition, Applicant is without information or belief sufficient to respond thereto and, based on such lack of information and belief, denies each and every allegation set forth therein.

8. In answer to Paragraph 8 of the Notice of Opposition, Applicant is without information or belief sufficient to respond thereto and, based on such lack of information and belief, denies each and every allegation set forth therein.

9. In answer to Paragraph 9 of the Notice of Opposition, Applicant admits each and every allegation set forth therein.

10. In answer to Paragraph 10 of the Notice of Opposition, Applicant is without information or belief sufficient to respond thereto and, based on such lack of information and belief, denies each and every allegation set forth therein.

11. In answer to Paragraph 11 of the Notice of Opposition, Applicant admits she was a former model for Opposer and that Applicant and Opposer had entered into agreements regarding Opposer's use of her likeness in print and electronic media. In further answer to Paragraph 11 of the Notice of Opposition, Applicant specifically and generally denies each and every other allegation.

12. In answer to Paragraph 12 of the Notice of Opposition, Applicant admits she filed Application Serial No. 76/516,972 with the United States Patent and Trademark Office to register the mark CHLOE VEVRIER. In further answer to Paragraph 12 of the Notice of Opposition, Applicant specifically and generally denies each and every other allegation.

13. In answer to Paragraph 13 of the Notice of Opposition, Applicant specifically and generally denies each and every allegation.

14. In answer to Paragraph 14 of the Notice of Opposition, Applicant specifically and generally denies each and every allegation.

15. In answer to Paragraph 15 of the Notice of Opposition, Applicant specifically and generally denies each and every allegation.

#### ANSWER TO COUNT I

16. Applicant incorporates Paragraphs 1 - 15, inclusive, as though set forth in full herein again.

17. In answer to Paragraph 17 of the Notice of Opposition, Applicant specifically and generally denies each and every allegation.

18. In answer to Paragraph 18 of the Notice of Opposition, Applicant specifically and generally denies each and every allegation.

#### ANSWER TO COUNT II

19. Applicant incorporates Paragraphs 1 - 18, inclusive, as though set forth in full herein again.

20. In answer to Paragraph 20 of the Notice of Opposition, Applicant specifically and generally denies each and every allegation.

21. In answer to Paragraph 21 of the Notice of Opposition, Applicant specifically and generally denies each and every allegation.

22. In answer to Paragraph 22 of the Notice of Opposition, Applicant specifically and generally denies each and every allegation.

#### ANSWER TO COUNT III

23. Applicant incorporates Paragraphs 1 - 15, inclusive, as though set forth in full herein again.

24. In answer to Paragraph 24 of the Notice of Opposition, Applicant specifically and generally denies each and every allegation.

25. In answer to Paragraph 25 of the Notice of Opposition, Applicant specifically and generally denies each and every allegation.

26. In answer to Paragraph 26 of the Notice of Opposition, Applicant specifically and generally denies each and every allegation.

#### ANSWER TO COUNT IV

27. Applicant incorporates Paragraphs 1 - 15, inclusive, as though set forth in full herein again.

28. In answer to Paragraph 28 of the Notice of Opposition, Applicant admits each and every allegation set forth therein.

29. In answer to Paragraph 29 of the Notice of Opposition, Applicant admits she filed Application Serial No. 76/516,972 to register the mark CHLOE VEVRIER. In further answer to Paragraph 29 of the Notice of Opposition, Applicant specifically and generally denies each and every other allegation.

30. In answer to Paragraph 30 of the Notice of Opposition, Applicant specifically and generally denies each and every allegation.

#### FIRST AFFIRMATIVE DEFENSE

31. As a first, distinct and separate affirmative defense, Applicant alleges there is no likelihood of confusion, mistake or deception between Opposer's mark CHLOESWORLD on the ground that Applicant's mark, when used to designate entertainment services in the nature of providing a website on the global

computer network featuring information in the field of adult entertainment and providing an on-line website of information comprising adult material is not confusingly similar to any trademark owned and used or registered by Opposer.

**SECOND AFFIRMATIVE DEFENSE**

32. As second, distinct and separate affirmative defense, Applicant alleges that prior to any act of Opposer alleged in the Notice of Opposition, Applicant created, adopted and commenced the use of the name CHLOE VEVRIER for the purpose of identifying her professional and entertainment activities.

**THIRD AFFIRMATIVE DEFENSE**

33. As a third, distinct and separate affirmative defense, Applicant alleges that Opposer is estopped from obtaining the relief sought on the ground it has followed a course of conduct and made specific representations acknowledging Applicant's use and ownership of the name CHLOE VEVRIER for the rendition of her professional services and that said course of conduct, representations and acquiescence have been relied upon by Applicant.

WHEREFORE, Applicant prays that the Notice of Opposition be dismissed and that Applicant's mark, CHLOE VEVRIER, be promptly registered in International Class 41.

Respectfully submitted,

ISAACMAN, KAUFMAN & PAINTER  
A Professional Corporation

By: 

Michael A. Painter  
Attorneys for Applicant,  
ANDREA FISCHER

MAP:src  
Dated: May 13, 2004  
8484 Wilshire Boulevard, Suite 850  
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CERTIFICATE OF SERVICE

The undersigned declares under the penalty of perjury  
the within **ANSWER TO NOTICE OF OPPOSITION** was forwarded to  
counsel for Opposer as follows:

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via first class mail, postage prepaid, this 13th day of May,  
2004.

  
SHERYL R. CONAWAY